

**THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

RICHARD GRENFELL,

Plaintiff,

v.

LACKAWANNA COUNTY, et al.,

Defendants.

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**3:18-CV-1657
(JUDGE MARIANI)**

ORDER

AND NOW, THIS 27TH DAY OF AUGUST, 2019, upon *de novo* review of Chief Magistrate Judge Susan Schwab's Report and Recommendation ("R&R") (Doc. 9), **IT IS HEREBY ORDERED THAT:**

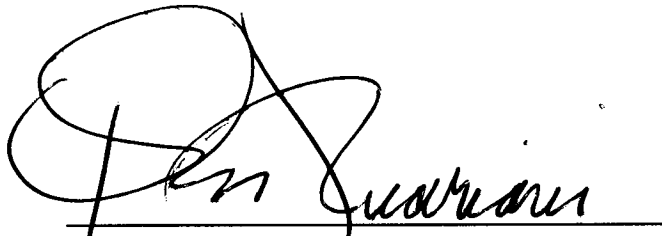
1. The R&R (Doc. 9) is **ADOPTED** for the reasons set forth therein.
2. Defendants' Partial Objections to the R&R (Doc. 10), which are limited to the Magistrate Judge's recommendation that the Court deny Defendants' motion to dismiss the Plaintiff's First Amendment retaliation, *Monell*, and civil conspiracy claims set forth in Counts IV – VI of Plaintiff's Complaint are **OVERRULED**.¹

¹ Defendants object that the "[p]laintiff's complaint fails to allege that the individual Defendants had knowledge of Plaintiff's allegedly protected conduct, namely, his 'meeting with attorney Matthew Comerford.'" (Doc. 10, ¶ 3). Defendants rely on *Ambrose v. Twp. of Robinson*, 303 F.3d 488, 493 (3d Cir. 2012), arguing that *Ambrose* held that "a plaintiff must present evidence of a defendant's knowledge of the plaintiff's claimed protected activity in support of a claim that such protected activity was a substantial or motivating factor in the adverse employment action taken against the plaintiff." (Defs'. Br. in Supp. of Partial Objs., Doc. 11 at 4). *Ambrose*, however, presents a case where, following a jury verdict for a police officer who claimed he was suspended in retaliation for his aid and/or support of a fellow officer's lawsuit against the Township, the Court of Appeals reversed the District Court denial of the Township's motion for judgment as a matter of law, holding that "there was insufficient evidence to support a finding that Ambrose's affidavit was a substantial or motivating factor in his suspension", as well as "no direct evidence

3. Defendants' Motion to Dismiss (Doc. 3) is **GRANTED IN PART AND DENIED IN**

PART as follows:

- a. Defendants' motion to dismiss Count I is **GRANTED** and Count I of Plaintiff's Complaint is **DISMISSED WITH PREJUDICE**.
 - b. Defendants' motion to dismiss Count II is **GRANTED** and Count II of Plaintiff's Complaint is **DISMISSED WITHOUT PREJUDICE** and with leave to amend within **21 days from the date of this Order**.
 - c. Defendants' motion to dismiss Count III is **GRANTED** and Count III of Plaintiff's Complaint is **DISMISSED WITH PREJUDICE**.
 - d. Defendants' motion to dismiss Counts IV, V, and VI is **DENIED**.
4. This action is **REMANDED** to Chief Magistrate Judge Schwab for further pretrial proceedings in accordance with this Court's August 22, 2018 Order (Doc. 2).



Robert D. Mariani
United States District Judge

that the Commissioners were aware of the affidavit when they voted to suspend him," and further holding that "'temporal proximity' is not sufficient to establish their awareness by circumstantial evidence." *Ambrose*, 303 F.3d. at 496.

The present case before this Court is at the pleading stage and the Magistrate Judge properly concluded that under the *Iqbal-Twombly* standard, *Ashcroft v. Iqbal*, 556 U.S. 662, 677-78 (2009) and *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544-555 (2007), Plaintiff Grenfell has sufficiently stated a cause of action for retaliation.